IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:		§	Art Unit:	2445
	James P. Ketrenos et al.	§		
		§	Examiner:	Adnan Mirza
Serial No.:	09/466,113	§		
		§	Conf. No.:	9791
Filed:	December 17, 1999	§		
		§	Atty Docket:	ITL.0248US
For:	Distributed File System	§		P7373
	Including Multicast Retrieval	§		
		§	Assignee:	Intel Corporation

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APPEAL BRIEF

Date of Deposit: May 7, 2009
I hereby certify that this correspondence is being electronically transmitted on the date indicated above.
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REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-24 (Rejected).

Claims 1-24 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

No amendments were made in response to the Final Rejection mailed December 11, 2008. Therefore, all amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

1. A method comprising:

receiving a request for a portion of a file system by a client (Fig. 5, 158) (Spec. at p. 15, lines 11-15);

identifying whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the client (Fig. 5, 160) (Spec. at p. 15, lines 20-22); and

if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server (Fig. 5, 164) (Spec. at p.15, 22-24).

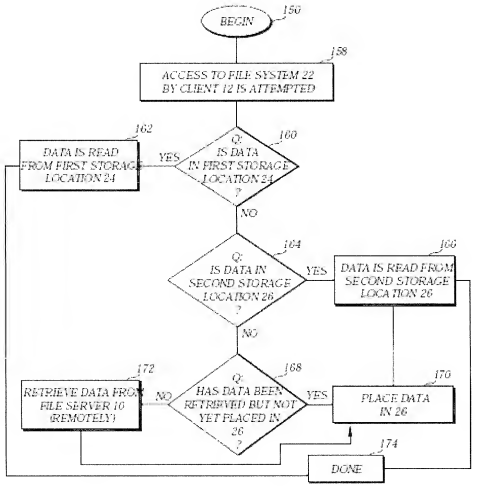

FIGURE 5

8. A system including:

a processor (Fig. 1, 12);

a storage medium (Fig. 1, 16) including a software program that, upon execution:

scans a first location associated with portions of a file system that have been previously stored by the system (Fig. 5, 160) (Spec. at p. 15, lines 20-22); and

scans a second location associated with portions of the file system that have been streamed to the system by a server (Fig. 5, 164) (Spec. at p. 15, lines 22-24).

17. An article comprising a medium storing instructions that cause a processor-based system to:

receive a request for a portion of a file system by the processor-based system (Fig. 5, 158) (Spec. at p. 15, lines 11-15);

identify whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the processor-based system (Fig. 5, 160) (Spec. at p. 15, lines 20-22); and

if not, determine whether the portion is stored in a second location associated with portions of the file system that were streamed to the processor-based system (Fig. 5, 164) (Spec. at p.15, 22-24).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. **Whether claims 1-24 are unpatentable under 35 U.S.C. § 103(a) over Eagle (US 5,838,916) and further in view of Pierre-Louis (US 6,421,777).**

ARGUMENT

A. Are claims 1-24 unpatentable under 35 U.S.C. § 103(a) over Eagle (US 5,838,916) and further in view of Pierre-Louis (US 6,421,777).

This case has been appealed twice and has been successfully pre-appeal reviewed twice.

The present rejection suggests that something in column 10, lines 25-30 of Pierre-Louis, teaches special provisions for handling portions of a file system that were streamed to the client by the server:

> The process begins by the client machine being turned on (step 500). A determination is then made as to whether to boot from the network (step 502). If the client is not to boot from the network, then the client boots from the bios boot device located in the client (step 504) with the process terminating thereafter.

There is nothing to suggest identifying whether a portion of the file system is stored in a first location associated with portions of the file system that have been previously stored or, if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by the server. There is no discussion in the cited references of different portions of the file system, nor is there any discussion of systems that were previously stored versus those that were streamed to the client by the server.

Since the cited references have no relationship to the claimed invention, as pointed out in the office action, there is no basis for the rejection and the rejection should be reversed.

With respect to the arguments set forth at the bottom of page 3 of the office action, it can only be stated that there is no first and second portion and, therefore, the arguments based thereon make no sense. That is, the cited material does not talk about different portions of the file system and, therefore, one skilled in the art would not know anything of the sort based on anything in the reference or otherwise. The interpretation that data is a boot file loaded from the client machine seems inappropriate and insufficient to meet the claimed limitations.

It seems likely that even if everything set forth in the rejection were true, it still would not meet a single one of the limitations of claims 1, 8, or 17.

Therefore, the rejection should be reversed.

* * *

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: May 7, 2009

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CLAIMS APPENDIX

The claims on appeal are:

1. A method comprising:
receiving a request for a portion of a file system by a client;
identifying whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the client; and
if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server.

2. The method of claim 1, further comprising retrieving the portion from the server if not stored in the second location.

3. The method of claim 1, wherein identifying further comprises associating portions of the file system used by the client during start-up with the first location.

4. The method of claim 1, wherein determining further comprises associating the second location with portions of the file system that were streamed to the client using a multicast operation.

5. The method of claim 3, wherein associating further comprises:
monitoring accesses to a plurality of portions of the file system during start-up;
retrieving the plurality of portions from the file system; and
storing the plurality of portions in the first location.

6. The method of claim 4, wherein associating further comprises:
retrieving a plurality of portions from the file system using multicasting; and
storing the plurality of portions in the second location.

7. The method of claim 1, further comprising waiting for the portion to be streamed to the client if not stored in the second location.

8. A system including:

a processor;

a storage medium including a software program that, upon execution:

scans a first location associated with portions of a file system that have been previously stored by the system; and

scans a second location associated with portions of the file system that have been streamed to the system by a server.

9. The system of claim 8, wherein the first location is a non-volatile storage medium.

10. The system of claim 9, wherein the non-volatile storage medium is a flash memory device.

11. The system of claim 8, wherein the second location is a volatile storage medium.

12. The system of claim 11, wherein the volatile storage medium is a memory device.

13. The system of claim 9, wherein the first location comprises portions of the file system used by the client at start-up.

14. The system of claim 9, wherein the second location comprises portions of the file system retrieved using a multicast operation.

15. The system of claim 9, wherein the software program, upon execution, retrieves the portion from the server if not stored in the second location.

16. The system of claim 14, wherein the contents of the second location are procured as a background operation.

17. An article comprising a medium storing instructions that cause a processor-based system to:

receive a request for a portion of a file system by the processor-based system;

identify whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the processor-based system; and

if not, determine whether the portion is stored in a second location associated with portions of the file system that were streamed to the processor-based system.

18. The article of claim 17, wherein the medium storing instructions is a flash memory device.

19. The article of claim 17, further storing instructions that cause the processor-based system to retrieve the portion from a server if not stored in the second location.

20. The article of claim 17, further storing instructions that cause the processor-based system to determine whether the portion is stored in a second location associated with portions of the file system that were streamed to the processor-based system by a server using a multicast operation.

21. The article of claim 20, further storing instructions that cause the processor-based system to wait for the portion to be stored in the second location by the multicast operation.

22. The article of claim 17, further storing instructions that cause the processor-based system to determine the contents of the first location by monitoring access of the file system during a predetermined time period.

23. The article of claim 22, wherein the instructions that cause the processor-based system to determine the contents of the first location by monitoring access of the file system during a predetermined time period are executed once.

24. The article of claim 17, further storing instructions that cause the processor-based system to:

determine whether the portion will be stored in the second location within an allotted time period; and

retrieve the portion from a server if not stored in the second location within the allotted time period.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.